IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY THE THIRTENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 812 of 1998

Between:

1 M.Balaiah S/o.Subbaiah
aged about 68 years, Retired Govt. Servant,

R/o.1-6-139-2
Subhash nagar Mahaboobnagar.

2 Jagadishwar Reddy S/o.Chenna Reddy
aged about 45 years, Govt. Servant,

R/o.H.No.1-169/2
Subashnagar Mahaboobnagar.

3 A.Vijaya Kumar S/o.Kesavu
aged 39 years, Legal Practitioner,

R/o.H. No. 1-6-139/2
Subhashnagar Mahaboobnagar.

4 M.K.Lingappa S/o.Veerappa
aged 59 years, Contractor,

R/o.1-6-139/7
Subhashnagar Mahaboobnagar.

5 Ramachandraiah S/o.Balaiah
R/o.1-6-139/1
Subhashnagar, Mahaboobnagar.

..... PETITIONERS

AND

1 The District and Sessions Judge
Mahaboobnagar.

2 Registrar High Court of A.P
Hyderabad.

3 Secretary to Government Home Department (Courts)
Govt. of A.P Secretariat
Hyderabad.

4 Commissioner
Mahaboobnagar Municipality, Mahaboobnagar District.

5 District Collector
Mahaboobnagar.

6 Executive Engineer Road and Buildings
Mahaboobnagar.

7 The Mandal Revenue Officer
Mahaboobnagar.

8 The Revenue Divisional Officer
Mahaboobnagar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari calling for records leading upto and inclusive of the impugned order passed in No.B6/9022/97, dt.24-11-1997 passed by the District Collector, Mahaboobnagar and quash the same and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For the Petitioners:MR.A.BICHAIAH, ADVOCATE

For the Respondents 1 to 3: SMT.M.BHASKARA LAKSHMI, STANDING COUNSEL

For the Respondents 4 to 8: None

The Court Made the Following Oral Order : (per Sri Devinder Gupta, CJ)

Petitioners in this writ petition filed under Article 226 of the Constitution of India are questioning the proceedings dated 24.11.1997 of Collector, Mahaboobnagar calling upon the Mandal Revenue Officer to take immediate action for removal of encroachments alleged to have taken place on the land in question, namely judicial site, and called upon the Mandal Revenue Officer to submit report by 30.11.1997.

Petitioners allege that the land in their occupation forms part of land in Survey No. 1090, measuring Ac.7.17 guntas, karij khata, located in between Nawabpet road and old Munsif Court Building situated in Mahaboobnagar. It is alleged that in the year 1963, Syed Karimuddin, S/o. Syed Jainulabuddin of Mahaboobnagar, the owner thereof, divided the said Survey No.1090 into various portions and sold them to separate persons. Petitioners are also purchasers from the said Karimuddin and at that stage disputes had arisen about the identity of the land in possession of the

petitioners. Petitioners have made reference to various letters saying that on 14th October, 1963 Executive Engineer, P.W.D. (R&B), Mahaboobnagar vide his letter had informed that the land in question is not Government land attached to Munsif Court and this letter was sent on the basis of the report received from AE/R&B/Mahaboobnagar. Petitioners also place reliance upon the letters dated 11.6.1966 received from the Mahaboobnagar Municipality addressed to the Tahsildar, Mahaboobnagar certifying that Syed Kareemuddin had sold the lands to various persons and the purchasers have produced a plan sanctioned by the Municipality in the year 1323 Fasli to Syed Kareemuddin for construction of huts and compound wall around the entire site and that is why the plan was sanctioned. Reference is made to various other letters which were exchanged between the revenue authorities and Mahaboobnagar Municipality in the year 1966. Abruptly, it is stated that in the year 1997 steps were being taken to oust the petitioners from the land which is in their occupation and they approached the Court. Some interim orders were passed. Respondents were called upon to file reply. In their reply, the respondents 1 and 2 while relying on the affidavit of Tirupathi Reddy, District and Sessions Judge had claimed the land to an extent of Ac.6.20 guntas in Survey No.1087 belonged to old Munsif Magistrate Court Building, Mahaboobnagar and it is a Government poramboke land and the entire land is situated in between Nawabpet road and Tahsil Office. It is denied that Old Munsif Court Building was originally record room of land records office. It is stated that the building was constructed exclusively for Munsif Magistrate Court and allotted to Judicial Department. Respondents have also denied that land in Survey No. 1090, measuring Ac.7.70 guntas, is a Karij Khata. Respondents have alleged that there is encroachment on the land in occupation of the Judicial Department. It is alleged by the respondents that false claim was set up by the purchasers in connivance with Syed Kareemuddin, who tried to grab the land which had been made over to Judicial Department by the Government forming part of Survey No. 1087.

We have heard the learned counsel for the parties.

May be that there is some dispute as regards the identity of the property, but, it is not a case which would require any adjudication in exercise of writ jurisdiction so as to determine and record a fining on the title of the property. Our anxiety is only to ensure that Rule of Law is maintained and, in case, some encroachments have been made by the petitioners over couple of years, the only course open for the

respondents would be to take appropriate steps in accordance with law for eviction of the petitioners from the land alleged to have been encroached upon by them. In other words, petitioners cannot be evicted from the land, otherwise, than in due course of law.

We, therefore, dispose of the writ petition with direction to the respondents that pursuant to the impugned proceedings dated 24.11.1997, in case, petitioners were found to be encroachers on any part of the land made over to Judicial Department, the proper course for the respondents would be to resort to appropriate proceedings for eviction of the petitioners and till that is done, petitioners cannot be evicted from the land over which they had laid their houses. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

Pnb

To

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9. Two C.D. Copies